

FAS

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

00 FEB 21 PM 12:55

UNITED STATES OF AMERICA,

Plaintiff,

v.

Virginio MARTINEZ-Perez,

Defendant

Magistrate Docket No.

08 MJ0504

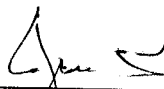
COMPLAINT FOR VIOLATION OF: DEPUTY

Title 8, U.S.C., Section 1326  
Deported Alien Found in the  
United States

The undersigned complainant, being duly sworn, states:

On or about **February 19, 2008** within the Southern District of California, defendant, **Virginio MARTINEZ-Perez**, an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

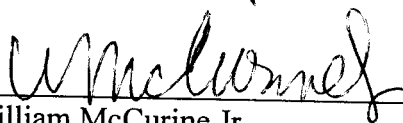
And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.



SIGNATURE OF COMPLAINANT

James Trombley  
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS **21<sup>st</sup>** DAY OF **FEBRUARY**  
**2008**



William McCurine Jr.

UNITED STATES MAGISTRATE JUDGE

FAS


**CONTINUATION OF COMPLAINT:****Virginio MARTINEZ-Perez****A#072 655 165****PROBABLE CAUSE STATEMENT**

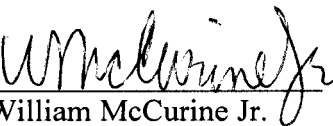
On February 19, 2008, Senior Patrol Agent E. Leon and Border Patrol Agent C. Esquivel, were performing Border Patrol duties in an area known as "Windmill Canyon." This area is approximately three miles north of the United States/Mexico International Boundary, and approximately one mile east of the Otay Mesa, California Port of Entry.

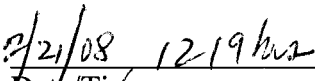
CBP Air and Marine helicopter observed a group of individuals concealing themselves in thick brush on the south wall of Windmill Canyon. Agent Leon and Agent Esquivel responded to the area and discovered a group of eight individuals, including one later identified as the defendant, **Virginio MARTINEZ-Perez**, hiding in the brush. Agent Leon and Esquivel identified themselves as Border Patrol Agents and questioned all eight individuals as to their immigration status. All eight stated that they are citizens and nationals of Mexico without any immigration documents that would allow them to enter or remain in the United States legally. At approximately 8:00 PM, all eight individuals including the defendant were arrested and transported to the Chula Vista Border Patrol Station for further processing.

Routine record checks of the defendant revealed an immigration history. The defendant's record was determined by a comparison of his immigration record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to **Mexico on January 22, 2008 through San Ysidro, California**. These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

The defendant was advised of his Miranda rights and was willing to answer questions without an attorney present. The defendant stated he was a citizen and national of Mexico who illegally entered the United States approximately one mile east of Otay Mesa, California Port of Entry.

  
James Trombley  
Senior Patrol Agent

  
William McCurine Jr.  
U.S. Magistrate Judge

  
Date/Time